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GOVERNANCE - LEADERSHIP - ETHICS

The Limits of Sporting Autonomy after the Super League Judgment:

Has the CJEU redefined UEFA's regulatory powers?

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Introduction

In the interaction between *law* and *sports*, the world of sports traditionally has enjoyed a significant degree of regulatory autonomy, commonly referred to as *sports-autonomy*. However, the judgment of the Court of Justice of the European Union (CJEU) in *European Super League Company SL v UEFA and FIFA*¹ has reignited the debate over whether this sports-autonomy can survive the application of EU law.

The article's main question therefore revolves whether the judgment fundamentally redefined sports-autonomy based on EU law, or whether it merely imposed legal limits on UEFA's regulatory powers.

This article argues that the Super League judgment did not abolish the concept of sporting autonomy, but rather that the CJEU redefined the legal conditions under which UEFA and FIFA may exercise that autonomy.

With regards to the word-limit set for this article, and the Super League-judgment's massive content, this article will only address matters related to autonomy.

Sporting autonomy before the Super League judgment

i. Sports-autonomy, global sports law and lex sportiva

Autonomy, in relation to organisations, is to be understood as a right for organisations to govern themselves.² Over time, customs and industry practices of the interaction between law and sports has developed into a judicial branch commonly referred to as "*global sports law*". Through times, sports law has been characterised by an exceptional degree of autonomy where international bodies, like FIFA, have been afforded "[...] *an effective immunity from review by national courts and enabled them to maintain a degree of self-governance and non-*

¹ Case C-333/21, *European Superleague Company, SL v Fédération internationale de football association (FIFA) and Union of European Football Associations (UEFA)* [2023] EU:C:2023:1011.

² 'Autonomy' *Cambridge Advanced Learner's Dictionary & Thesaurus* (Cambridge University Press 2026)
https://dictionary.cambridge.org/dictionary/english/autonomy#google_vignette

accountability that is arguably unrivalled among international organisations".³ This independence and immunity from governmental interference – widely accepted in the judicial sports sphere – is what “*sports-autonomy*” refers to.

Over time, this distinctive autonomy has evolved the legal practice of global sports law into an *ideology* about an autonomous transnational legal order.⁴ As a term, “global sports law” has not been exhaustively defined. Though, besides being a private regulatory order, legitimised by contract and consent, and operating transnationally, it differs from other judicial branches by developing norms and distinctive principles, solely applicable to the context of sport.⁵

An alternative concept to global sports law, is *lex sportiva*.⁶ The Court of Arbitration for Sport (CAS), has since its establishment in the ‘80’s, become extraordinarily important, and is today widely recognised as the world’s supreme court of sports, and is consequently a key legal actor in the making of global sports law.⁷ By steadily increasing decisions, CAS’ application of law has led to the formation of a specific set of principles and rules to legally address sport, and this judge-made sports law, is what *lex sportiva* refers to.⁸

By interpretation, *global sports law* implies a *transnational binding force*.⁹ It is therefore necessary to underline that this “law”, to a large extent, is a *lawyer-made* regulatory system, composed of rewritten rule-books and constitutions, that commands *obedience* as a prerequisite to participation.¹⁰ Evidence of required *obedience* can be found in the FIFA Statutes ’24¹¹, Art.

³ Ken Foster, 'Global Sports Law Revisited' (2019) 17(1) *Entertainment and Sports Law Journal* 4, page 1.

⁴ Foster (n 3) 1.

⁵ Foster (n 3) 8. See also C-333/21, par. 3 and 17.

⁶ Foster (n 3) 2.

⁷ Court of Arbitration for Sport, 'History' (*TAS / CAS*) <https://www.tas-cas.org/en/general-information/history> accessed 23 July 2026 and Lorenzo Casini, 'The Making of a Lex Sportiva by the Court of Arbitration for Sport' (2011) 12(5) *German Law Journal* 1317, page 2 & 3.

⁸ Casini (n 7) 3.

⁹ Foster (n 3) 3.

¹⁰ Foster (n 3) 3.

¹¹ FIFA, *FIFA Statutes* (May 2024 ed, FIFA 2024) [fifa.com](https://www.fifa.com) accessed 24 July 2026 (“the statutes ’24”).

14 par. 1 litra a, and of *consent* in the CAS-Code ¹² R27. ¹³ These documents demonstrates well that FIFA and CAS have established a regulatory framework that displays many of the characteristics traditionally associated with legal institutions, and thus, they have strengthened their perceptive legitimacy and authority.¹⁴

Accordingly, the term *global sports law* can be interpreted as consisting of the legal exercise of applying both sports-autonomy and the formal principles of *lex sportiva*, in conjunction with relevant legal sources. Consequently, the term can be defined as an “[...] *autonomous transnational legal order established by international sporting federations and those subject to their sporting jurisdiction[s] and which emerges from the statutes and regulations of federations as interpreted by institutions of alternative dispute resolution created by those federations.*”¹⁵

Existing legal limits

The Bosman- and Meca-Medina rulings are two fundamental cases in modern EU sports law.¹⁶

i. The Bosman ruling

The backstory relates to the Belgian football player, Bosman, who wanted a transfer to a French club after his contract had expired with his former club. In the early ‘90’s, the rules in force let his former club demand a transfer fee *after* the contract’s expiration, and in so, could

¹² Court of Arbitration for Sport, *Code of Sports-related Arbitration* (in force from 1 July 2025, TAS/CAS 2025) https://www.tas-cas.org/generated/assets/pages/index/CAS_Code_2025_EN_--1-.pdf accessed 24 July 2026 (“the CAS-Code”).

¹³ Foster (n 3) 1 & 3.

¹⁴ Foster (n 3) 1.

¹⁵ Foster (n 3) 2.

¹⁶ Case C-415/93, *Union royale belge des sociétés de football association ASBL v Jean-Marc Bosman, Royal club liégeois SA v Jean-Marc Bosman and others and Union des associations européennes de football (UEFA) v Jean-Marc Bosman* [1995] ECLI:EU:C:1995:463, and Case C-519/04 P, *David Meca-Medina and Igor Majcen v Commission of the European Communities* [2006] ECLI:EU:C:2006:492.

prevent the transfer.¹⁷ On these grounds, Bosman, inter alia, argued that such rules infringed his right to free movement as a worker under EU law.

The CJEU agreed and ruled that transfer fees for out-of-contract players violated the EU principle of free movement of workers.¹⁸

ii. The Meca-Medina ruling

In this case, the ruling relates to two professional swimmers that challenged anti-doping sanctions, by arguing that the rules in force restricted competition and consequently breached EU competition law.¹⁹

Its relevance connects to the Court's demonstration that sports in general is *not* exempt from EU law simply *because* it is *sport*.²⁰

The Super League Judgment

i. Background for the dispute

In 2021 the Super League project was announced by Florentino Perez, who is both the president of Real Madrid and chairman of the European Super League Company (ESLC).²¹ The objective was to form a “new international professional football competition”, that would save the future of football at a critical point in time.²²

¹⁷ See C-415/93, par. 6-24.

¹⁸ See C-415/93, par. 100-104.

¹⁹ See C-519/04-P, par. 1.

²⁰ C-519/04, par. 18, 22 and 34.

²¹ Dan Sansom, 'Florentino Perez: Real Madrid president insists European Super League will 'save football at this critical moment' (*Sky Sports*, 20 April 2021)

<https://web.archive.org/web/20210420064511/https://www.skysports.com/football/news/11095/12280860/florentino-perez-real-madrid-president-insists-european-super-league-will-save-football-at-this-critical-moment>

²² C-333/21 par. 23 and Sansom (n 19).

In April, FIFA and UEFA publicly stated a complete refusal of recognition of the competition and held that any professional club or players taking part, would be expelled from all FIFA– and UEFA–competitions, and added, that “[...] *all international competitions were to be organized or authorized by the competent entities as referred to in the FIFA and the continental confederations’ Statutes*”.²³

Shortly after, the formation of the Super League was put on hold and the legal dispute started before the Juzgado de lo Mercantil de Madrid (Commercial Court, Madrid, Spain).²⁴

ii. The ESLC arguments

Firstly, the ESLC argued that UEFA’s and FIFA’s (the ‘entities’) system of prior authorisation and sanctions unlawfully restricted competition by allowing UEFA, as both regulator and commercial operator, to prevent rival competitions without objective, transparent and non-discriminatory criteria.²⁵ According to the ESLC, such rules constituted an abuse of a dominant position contrary to Art. 102 TFEU²⁶ and an anticompetitive restriction of competition under Art. 101 TFEU.²⁷

Secondly, the ESLC argued that the entities’ exclusive control of commercial rights was unlawful, by the entities’ claim to be the “original owners”, even where a competition on European territory is set up by a *third-party*.²⁸

²³ C-333/21 par. 30.

²⁴ C-333/21, par. 28 and 29.

²⁵ C-333/21, par. 117.

²⁶ Consolidated Version of the Treaty on the Functioning of the European Union [2016] OJ C202/1.

²⁷ C-333/21, par. 47 (1)–(2) and 68.

²⁸ C-333/21, par 47 (4).

iii. The entities' justification

In unison, UEFA and FIFA argued that their dominant position, or their centralized governance, was founded in the “specific nature of sport” and legitimate aims, hence that their market position protected the integrity of the sport, but also ensured solidarity in terms of redistribution of profits out to both those participating in the tournaments, but also to those *not* participating in those specific tournaments, hereinunder other professional players, amateurs, women, young people, stakeholders and even supporters and consumers.²⁹

iv. The European Court of Justice's reasoning

As a first, the Court reaffirmed the principle of the Meca-Medina ruling, that sporting activities which constitutes economic activity are *not* exempt from EU law.³⁰ The statement confirms, as a general rule, that *sports law* – and therefore *sports-autonomy* – is legally restricted by EU law.

A. Regarding the entities' regulation of access to the market

The Court stated that having been *granted*, or *obtained* a dominant position, does not in itself constitute *abuse* of that dominant position.³¹ However, any potential *risks* of abuse must be eliminated by legal safeguards not to infringe Art. 102 TFEU.³² This specifically means that where an “undertaking” (UEFA) has the power to regulate a competitors (ESLC) access to the market, through a discretionary decision, such power must be subject to restrictions, obligations and review, by being placed within a legal framework of substantive criteria, and must also be “[...] laid down in an accessible form prior to any implementation.”³³

²⁹ C-333/21, inter alia, par. 103, 144–147, 175–176 and 234.

³⁰ C-333/21, par. 33 and 83.

³¹ C-333/21, par. 128.

³² C-333/21, par. 134 and 138.

³³ C-333/21, par. 135, 151 and 152.

Thus, a “legal framework” especially refers to procedural safeguards, in order to prevent conflicts of interest and arbitrary exclusion of potential competitors.

This further means, even when sports do have specific characteristics, the entities’ cannot solely base their entry–power on the grounds of legitimate aims and self–made statutes.³⁴ As a result, the entities’ practical application of their entry–power, without a legal framework in compliance with EU law, the entities’ were constituted as *abusing* their position.³⁵

B. Regarding the entities’ threat of sanctions

For largely the same reasons as those discussed in Section 3.4.1, namely the absence of procedural safeguards governing UEFA’s and FIFA’s discretion, the CJEU held that the *threat* of sanctions, together with the refusal to authorise the Super League, was able to constitute either an *anticompetitive* decision under Art. 101 TFEU, *or* an abuse of a dominant position under Art. 102 TFEU.³⁶ The Court’s concern was therefore not merely the *existence* of sanctions, but their *potential* to deter market entry, and thereby, *reinforce* the entities’ dominant position.

C. Regarding the legality of the entities’ claim of exclusive control over commercial rights

According to Art. 67–68 of the then relevant edition of the FIFA Statutes and corresponding UEFA provisions, UEFA is the original owner “[...] *of all the rights emanating from competitions and other events coming under their respective jurisdiction, without any restrictions as to content, time, place and law.*”³⁷

In regards to the entities’ ‘jurisdiction’, the Court held that jurisdiction emanating from these provisions must be examined as a *voluntary* assignment, or a even a *forced* assignment, of the professional football clubs’ rights to the national football associations, at the time of affiliation to them, where the entities’, *subsequently*, is granted the ‘jurisdiction’ by the national

³⁴ C–333/21, par. 103 and 144–147.

³⁵ C–333/21, par. 152.

³⁶ C–333/21, par. 146, 152 and 180–181.

³⁷ C–333/21, par. 211. In 2026, Art. 67 and 68, is merged into Art. 59 in the FIFA Statutes ’24.

associations being affiliated to *them*.³⁸ In other words, the *assignment* is *not* really free and voluntary, but rather a forced requirement of obedience. As a result, such rules may both be regarded as a *decision* by an undertaking, cf. Art. 101 TFEU, *or conduct* by an undertaking in a dominant position, cf. Art. 102 TFEU.³⁹

Either way, the CJEU held such a rule as both *ambiguous*, as to which commercial rights the provisions cover, and as *liable* to prevent all market-competition of the various rights related to the matches, but addition, the functioning of competitions, and this, to the detriment of third-parties eager to participate.⁴⁰

As an obiter dictum, the Court then says that rules of exclusive power are *not* in *themselves* automatically unlawful, however, because such rules may restrict competition, they must be assessed under Art. 101 and 102 TFEU.⁴¹

Consequently, it was constituted that holding exclusive rights to commercial interests may be lawful, but only if the procedural rules governing such power satisfy the requirements of transparency, objectivity, necessity and proportionality.⁴²

From unregulated sporting autonomy to supervised sporting-autonomy

i. Why the CJEU limits sporting autonomy

As FIFA and UEFA historically has enjoyed broad discretionary power to, inter alia, organise competitions, to recognise competitions, and to regulate who could participate in them, the practical consequence of the CJEU's reasoning is that the entities' discretion, no longer is

³⁸ C-333/21, par. 215.

³⁹ C-333/21, par. 215 and 217.

⁴⁰ C-333/21, par. 221 and 228.

⁴¹ C-333/21, par. 241.

⁴² C-333/21, par. 240 and 241.

presumed lawful merely by reference to sporting autonomy, but has to meet requirements of a legal framework that is subject to review and legal scrutiny.⁴³

This means that sporting autonomy still survives in the area of sports law, but that sports-autonomy, as a legal exercise, no longer permits purely discretionary regulation. The legal framework clearly must be so, as to ensure a homogenous appliance of law, fair procedures, transparency and proportionality, as to hinder, inter alia, arbitrariness.

Further, where sporting entities, such as FIFA and UEFA, operate out of *granted* autonomy, the discretion that follows, has to be regulated and overviewed to hinder both abuse of a dominant position and anti-competitive rules, such as to hinder market-restrictions, conflicts of interests and unlawful dominance. In other words, EU law now requires greater accountability and have through the Super League judgement transferred sporting autonomy, as a legal exercise, from institutional trust, into judicial accountability, where decisions now must be legally justified.⁴⁴

As a result, it becomes evident that today's understanding of sports autonomy therefore must be understood as a form of *supervised* (sports-) autonomy.

ii. Why autonomy still survives

First of all, sports are explicitly recognized as to have special characteristics, hence educational- and social functions, cultural importance and organisational specificities, and thereby one of the ESLC's arguments, which in essence can be interpreted as an argument for football to be treated like any other commercial market, is denied.⁴⁵ Conversely, footballs' special characteristics *are* capable of justifying special regulatory arrangements.

To that extension, distinct sporting objectives such as sporting integrity, sporting merit, consistency of competitions and equal opportunities, are constituted as legitimate – at least in their specific context.⁴⁶ Thereby, the CJEU accepts that UEFA and FIFA may maintain regulatory

⁴³ C-333/21, par. 151 and 152.

⁴⁴ C-333/21, par. 171–183.

⁴⁵ C-333/21, par. 100–103, cf. Art. 165 TFEU.

⁴⁶ C-333/21, par. 143–147.

structures based on their statutes, and in so, their central governance. This, because, inter alia, prior authorisation systems are lawful *in principle*, but again also in reality, as long as the system is justified in necessity and proportionality.⁴⁷

Accordingly, one can conclude that the European sports model, where governing bodies both regulate competitions and redistribute revenues granted by them, still lives on, and in so, the entities', to a large extent, was heard in their arguments for central governance.⁴⁸

Conclusion

The Super League judgment marks a shift from autonomous governance to *accountable* governance.

As seen in practice, UEFA and FIFA still remain the legitimate regulators of European football. However, their regulatory authority is now subject to the rule of law, in a manner that ensures that sporting governance cannot be used to shield anti-competitive conduct, and, their regulatory and commercial powers can no longer be exercised on the grounds of discretion or institutional authority alone.

Today, the legal exercise must comply with the requirements of EU law, and thus, be subject to legal scrutiny. Consequently, sporting autonomy still survives, but as a form of *supervised* autonomy.

Accordingly, the Super League judgment did not fundamentally redefine the concept of sporting autonomy itself. Rather, it redefined the legal framework governing the exercise of that autonomy, by requiring UEFA and FIFA to exercise their regulatory discretion in compliance with EU law.

⁴⁷ C-333/21, par. 143–145 and 175–183.

⁴⁸ C-333/21, par. 143.

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